

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Ridgway and Rangely, Colorado)
MB Docket No. 02-118
RM-10394

NOTICE OF PROPOSED RULE MAKING

Adopted: May 15, 2002

Released: May 24, 2002

Comment Date: July 15, 2002

Reply Comment Date: July 30, 2002

By the Assistant Chief Audio Division:

1. The Audio Division has before it a petition for rule making filed on behalf of Idaho Broadcasting Consortium, ("petitioner") permittee of Station KBNG(FM), Silverton, Colorado, proposing the substitution of Channel 279C1 for Channel 279C2 at Ridgway, Colorado, and the modification of Station KBNG 's authorization accordingly, and the substitution of Channel 257C1 for vacant Channel 279C1 at Rangely, Colorado, to accommodate its upgrade.

2. In support of its proposal, petitioner states that in MM Docket 99-151, Station KBNG's community of license was modified from Silverton to Ridgway, Colorado, and the facility was upgraded to Channel 279C1. When petitioner filed its application to implement these changes, site availability issues, allotment constraints and city-grade coverage to Ridgway forced it to downgrade to Channel 279C2. It states that the Class C1 facility is not feasible under the current allotment scheme because only one site is available from which it could get line-of-site service to the community. Petitioner further states that the substitution of Channel 257C1 for Channel 279C1 at Rangely will eliminate the co-channel constraints that are inherent with the simultaneous use of Channel 279 at Ridgway, and will afford it greater leeway for site selection. It also states that under its allotment proposal, Station KBNG will be able to reach an additional 69,417 persons, and Channel 257C1 will be able to reach 19,830 additional persons.

3. We believe that the proposed upgrade warrants consideration since it would enable Station KBNG to effectuate the upgrade it was previously granted, and allow the station to expand its coverage area. To accommodate the upgrade, we also propose the substitution of Channel 257C1 for Channel 279C1 at Rangely. An engineering analysis has determined that Channel 279C1 can be allotted at Ridgway at petitioner's requested site 11.9 kilometers (7.4 miles) north of the community.1 Additionally, Channel 257C1 can be allotted at Rangely at petitioner's suggested site 5.0 kilometers (3.1 miles) northwest of the community.2 As re requested, we will also proposed to modify the authorization for

1 The coordinates for Channel 279C1 at Ridgway are 38-15-26 NL and 107-46-54 WL.

2 The coordinates for Channel 257C1 are 40-7-12 NL and 108-50-29 WL. This is a different site from the Channel 279C1 site at Rangely.

Station KBNG to specify operation on Channel 279C1.

4. Accordingly, we seek comment on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Ridgway, Colorado	279C2	279C1
Rangely, Colorado	279C1	257C1

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **July 15, 2002**, and reply comments on or before **July 30, 2002**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

Lee W. Shubert
 Rosenman & Colin, LLP
 805 15th Street, N.W., 9th Floor
 Washington, DC, 20005-2212

7. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

9. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer

subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioner. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.